

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

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In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

PROMESA
Title III

as representative of

Case No. 17 BK 3283 (LTS)

THE COMMONWEALTH OF PUERTO RICO,
et al.,

(Jointly Administered)

Debtors.
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New York, N.Y.
December 14, 2022
8:30 a.m.

Before:

HON. LAURA TAYLOR SWAIN,

Chief U.S. District Judge

APPEARANCES:

For the Financial
Oversight and Management
Board for Puerto Rico:

Martin J. Bienenstock, Esq.
Brian S. Rosen, Esq.
Steve Y. Ma, Esq.
Libbie B. Osaben, Esq.
Javier F. Sosa, Esq.
Laura Stafford, Esq.

For the Official Committee
of Unsecured Creditors
(the "Committee"):

Luc A. Despins, Esq.

For Assured Guaranty
Corp. and Assured
Guaranty Municipal Corp:

William J. Natbony, Esq.

MCEDPROH1

APPEARANCES, Continued:

For The Puerto Rico
Fiscal Agency and
Financial Advisory
Authority:

Peter Friedman, Esq.
Matthew P. Kremer, Esq.
Carolina Velaz-Rivero, Esq.

For The Ad Hoc Group
of PREPA Bondholders:

Amy Caton, Esq.

For U.S. Bank:

Ronald J. Silverman, Esq.
Pieter van Tol, Esq.

For Syncora:

Susheel Kirpalani, Esq.

For Bonistas del Patio:

Donald S. Bernstein, Esq.
Benjamin S. Kaminetzky, Esq.

Also present: Judge Shelley Chapman
Judge Robert Drain
Judge Brendan Shannon
Yusif Mafuz-Blanco

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CAT.

1 THE COURT: Buenos dias. Good morning, everyone.
2 This is Judge Swain.

3 Would the courtroom deputy please announce the case?

4 THE DEPUTY CLERK: The United States District Court
5 for the District of Puerto Rico is now in session. The
6 Honorable Laura Taylor Swain presiding. Also present, the
7 Honorable Magistrate Judge Judith Dein. God save the United
8 States of America and this Honorable Court.

9 *In re: The Financial Oversight and Management Board of*
10 *Puerto Rico, as representative of the Commonwealth of Puerto*
11 *Rico, et al, PROMESA, Title III, Case No. 2017-BK-3283, for*
12 *Omnibus Hearing.*

13 THE COURT: Thank you, Ms. Ramirez.

14 Mr. Bienenstock, you have your hand up.

15 MR. BIENENSTOCK: Yes, your Honor.

16 Good morning. I just wanted to put my hand up because
17 I'm getting a message the host stopped my video. I don't mind
18 not seeing my face, but I just didn't want you to think that I
19 didn't have it on on purpose.

20 THE COURT: Alright. Thank you for letting us know.

21 MR. BIENENSTOCK: Oh, it's fixed.

22 THE COURT: There you are. You're back.

23 I'd ask that everyone turn their video on for the
24 opening remarks.

25 I'm wearing a mask. I'm here in the courtroom with

1 other people, and our numbers are higher in New York, so in
2 order to be courteous to the court staff with me, you'll see me
3 masked. If you have real difficulty understanding me, which
4 you really shouldn't, but if anyone does, raise your hand and
5 we'll work on doing something about that.

6 MR. NATBONY: Judge Swain, it's Bill Natbony at
7 Cadwalader. I have the same problem.

8 THE COURT: Of the video?

9 MR. NATBONY: No picture. No picture.

10 THE COURT: Alright. Let's see what we can do about
11 that.

12 Okay. I think we're fixing those going along. So if
13 I see your name, I will assume that it is our fault and not
14 yours.

15 MR. NATBONY: Thank you.

16 THE COURT: Welcome, counsel, parties in interest, and
17 members of the public and press. We are about to begin today's
18 Omnibus Hearing in the PROMESA Title III cases. After the
19 conclusion of the Omnibus Hearing, we will proceed to a hearing
20 on the application, pursuant to Title VI of PROMESA, for the
21 approval of the proposed Qualifying Modification of certain
22 bonds issued by the Puerto Rico Public Finance Corporation,
23 which is referred to as PFC.

24 To ensure the orderly operation of today's virtual
25 hearings, all parties appearing by Zoom must mute their

1 microphones when they're not speaking and, after these initial
2 remarks, turn off their video cameras if they're not directly
3 involved in the presentation or argument. When you need to
4 speak, you must turn your camera on and unmute your microphone
5 on the Zoom screen.

6 I again remind everyone that consistent with court and
7 judicial conference policies, and the orders that have been
8 issued, no recording or retransmission of the hearing is
9 permitted by anyone, including, but not limited to, the
10 parties, members of the public, and the press. Violations of
11 this rule may be punished with sanctions.

12 I'll be calling on each speaker during the
13 proceedings, and when I do call on you, please turn on your
14 camera, unmute yourself, and identify yourself by name for
15 clarity of the record. After the speakers listed on the agenda
16 for each of today's matters have spoken, I may permit other
17 parties in interest to address briefly any issues pertinent to
18 the presentations that require further remarks. If you wish to
19 be heard under these circumstances, please use the "raise hand"
20 feature at the appropriate time. That feature can be accessed
21 by selecting the reactions icon in the tool bar located at the
22 bottom of your Zoom screen. I will then call on the speakers
23 one by one. After you finish speaking, please select the
24 "lower hand" feature also in the reactions area.

25 Please don't interrupt each other or me, so that we

1 can have an accurate transcript; and, as usual, I apologize in
2 advance for breaking the interruption rule, because I may
3 interrupt if I have questions or if you go beyond your allotted
4 time. If anyone has trouble hearing me or another participant,
5 please use the "raise hand" feature.

6 The Amended Agenda, which was filed as Docket Entry
7 No. 23055 in Case No. 17-3283 and as Docket Entry No. 68 on the
8 PFC docket, which is Case No. 22-CV-01517, is available to the
9 public at no cost on the Kroll Restructuring website,
10 previously known as Prime Clerk, for those interested. The
11 Prime Clerk website addresses and telephone numbers are still
12 operational.

13 I encourage each speaker to keep track of his or her
14 own time. The Court will also be keeping track of the time and
15 will alert each speaker when there are two minutes remaining
16 with one buzz and, when time is up, with two buzzes. If you're
17 speaking for three minutes or less, you'll only hear the final
18 two buzzes. Here's an example of the buzz sound.

19 (Sound played)

20 THE COURT: If we need to take a break, people who are
21 on the AT&T listen-only line should put their phones on hold
22 but not hang up. So if we're on a break, put your listen-in
23 line on hold, and then take it off hold at the time when we're
24 scheduled to restart.

25 This morning we will proceed until 11:50 Eastern

1 Standard Time, which is 12:50 Atlantic Standard Time, and we'll
2 resume, if necessary, from 1:10 Eastern Time to 4:00 p.m.
3 Eastern Time. I'll aim to take a break at about 10:30 Eastern
4 Time, which would be 11:30 Atlantic Standard Time, and that
5 would be a ten-minute break. Again, during the break, people
6 who are on the listen-in line should just put the line on hold
7 and not hang up.

8 So please, everyone except Mr. Bienenstock, turn your
9 cameras off now, and then when we reach your agenda item or I
10 call on you, turn your camera back on.

11 Good morning, Mr. Bienenstock.

12 MR. BIENENSTOCK: Good morning, Judge.

13 THE COURT: Thank you.

14 Before we turn to the first item on the filed Agenda,
15 I note that last night the Oversight Board, rather than filing
16 a plan in accordance with the deadlines set by the extension
17 order that was filed on December 12, filed an urgent motion
18 requesting a further extension of the PREPA Plan-related
19 deadlines. That urgent motion is Docket Entry No. 23064 in
20 Case No. 17-3283 and Docket Entry No. 3108 in Case No. 17-4780.

21 The urgent motion indicates that the resolution of
22 some type of problem with the production of information by the
23 Board has created a need and opportunity for further
24 discussions and potentially for a material change in the
25 Oversight Board's position.

1 Do I have that right, Mr. Bienenstock?

2 MR. BIENENSTOCK: Yes, your Honor. I think that's
3 what we wrote in the motion. Yes.

4 THE COURT: So I'd just like a little bit more insight
5 into the situation. Is this information information that the
6 Board had undertaken to produce in connection with the earlier
7 order?

8 MR. BIENENSTOCK: Your Honor, the answer -- I'm not
9 absolutely sure. It was information that was put into a data
10 room. Not everyone realized it was there. It obviously was
11 not manufactured by the Board. It was uploaded into the data
12 room, and if we had -- if the Board had understood it had been
13 there earlier, it would have produced it earlier. There were
14 just a series of I think people not knowing things, and it all
15 pertained to one of many issues at stake. And it was disclosed
16 a couple evenings ago.

17 That's the best I can tell you, your Honor.

18 THE COURT: Yes. There was certainly good news in the
19 extension notice from my perspective hearing that the Board's
20 willing to hear information that might move more productively
21 the mediation. I am aware that all participants have been
22 working hard in the mediation, but it also sounds as though,
23 whether by reason of information tracking, communications, or
24 otherwise that some responsibility and perhaps significant
25 responsibility for delays that have brought us past the

1 original time target that I set and the extended time target
2 that I set may be traceable to the Board and those the Board
3 works with.

4 Given the importance to Puerto Rico and all of the
5 stakeholders of the issues that we're dealing with in seeking
6 to get a proper PREPA plan to confirmation in a timely manner
7 by the middle of this year, I'm deeply disturbed by that. And
8 so I will expect that the Board, as Debtor representative, will
9 be scrupulous and more scrupulous, to the extent necessary, in
10 its attention to the full range of matters that are important
11 here and the need to use the time of the Court and the
12 mediators and the other parties in interest well in moving
13 toward confirmation of a plan for PREPA and a more solid future
14 for Puerto Rico moving forward, and the ability of Puerto Rico
15 to focus on repairing infrastructure and reviving the economy.
16 None of that should be surprising, but I felt a need to share
17 that this morning, having read the statement in the extension
18 request.

19 So now I would invite you to speak further to the
20 extension request.

21 MR. BIENENSTOCK: Your Honor --

22 THE COURT: I'm sorry. Shelley Chapman, the lead
23 mediator, has her hand up.

24 Judge Chapman, did you want to be heard before
25 Mr. Bienenstock speaks further?

1 JUDGE CHAPMAN: No. Good morning, your Honor. I'm
2 sorry. I'm perfectly happy to wait until after Mr. Bienenstock
3 has concluded his remarks.

4 THE COURT: Thank you. So I'll call on you after
5 Mr. Bienenstock has concluded his remarks.

6 Thank you. Please proceed, Mr. Bienenstock.

7 MR. BIENENSTOCK: Okay, your Honor. As the Court
8 understands, the mediation confidentiality severely constrains
9 what I think any of us can and should be saying. So to the
10 extent something more than what we wrote in the motion is
11 beneficial to the Court, I think I would just point out a few
12 things, and hopefully not breach any mediation confidentiality
13 in doing it.

14 THE COURT: I do want you to be careful not to breach
15 mediation confidentiality, so I appreciate your attention to
16 that. I just want to give you an opportunity to say anything
17 further that you're comfortable in saying.

18 MR. BIENENSTOCK: So outside of the mediation, and
19 from the beginning of this case, the Board has taken a position
20 in respect of its fiscal plans and budgets, that those are not
21 up for negotiation, because the welfare of Puerto Rico and its
22 people is not something that can be negotiated. That said, the
23 Board has always specified that it would change its fiscal
24 plans and budget on at least two conditions -- on either of two
25 factual scenarios. One is if someone shows that it made a

1 mistake, and the other is if it gets additional material
2 information that would change its conclusions.

3 In the mediation, from the Board's point of view, its
4 positions on that are just its positions, whether it's in
5 mediation or not. Suffice it to say, in connection with the
6 mediation, some people think that the issue in particular in
7 respect of the data that was the subject of the problem is
8 material and should change positions. Some people not. Some
9 people think there are other issues that overwhelm the single
10 issue that that data concerns. But from the public record, the
11 public and the Court knows that so far the Board has done deals
12 with Vitol, as one impaired accepting class, and the Fuel Line
13 Lenders, whose claims exceed \$800 million as a second impaired
14 accepting class.

15 Certainly a goal of the Board and the entire
16 mediation, is to see if that can be expanded to include the
17 bondholders, which is comprised of the largest class of
18 creditors. The Board, as the motion states, will continue to
19 negotiate what the bondholders and other parties who are not on
20 board yet -- significantly, we have the unions, which the
21 biggest issue with the unions is they have an underfunded
22 pension plan. That's public knowledge. And there's no --
23 there's no at least finalized understanding with the statutory
24 -- the Official Creditors Committee. So negotiations with all
25 those parties, from the Board's point of view, will continue

1 whether or not the Board files a proposed plan without those
2 things being settled.

3 As the motion says, the Board is and has been prepared
4 to do that, but because of the view that reaching a deal, at
5 least with the bondholders, might be more difficult if a
6 proposed plan is on file than if it's not, the Board has been
7 more than willing to accommodate various inputs that it should
8 ask for extensions of the mediation so as to try to reach those
9 deals without the proposed plan being on file. Whether that
10 will prove true, we don't know, but since the litigation that
11 resolves some of the key issues has not been slowed down, and,
12 in fact, yesterday reply briefs were filed -- I think the only
13 thing left is on December 20 the intervenors can file some
14 supplemental pleadings -- the Board has felt that by requesting
15 extensions of the mediation, it has not slowed down the
16 progress or reduced the likelihood of confirmation in July.

17 So, essentially, the Board's request is to try to
18 accommodate those parties who believe it's better to negotiate
19 without a plan on file, and that's why we made the request.
20 And because it is important to some parties, we hope the Court
21 will grant it. If it doesn't, the Board is prepared to file
22 its proposed plan and disclosure statement and to continue
23 negotiating.

24 THE COURT: Thank you, Mr. Bienenstock.

25 Judge Chapman.

1 JUDGE CHAPMAN: Good morning, your Honor. Can you
2 hear me?

3 THE COURT: Yes, I can. Good morning.

4 JUDGE CHAPMAN: Good morning, your Honor.

5 Shelley Chapman from the law firm of Willkie Farr &
6 Gallagher, appearing this morning on behalf of the mediation
7 team.

8 Your Honor, I must confess that Mr. Bienenstock's
9 remarks have gone off in a direction that I did not anticipate,
10 so I'm not going to fully address and respond to a number of
11 the observations that he's made with respect to the overall
12 plan process, but I do believe that I need to correct the
13 record, if you will, and give you an explanation from our
14 vantage point as to what happened and why we are now here
15 before you today in connection with a third extension request.

16 THE COURT: Again, you, too, will be scrupulous about
17 mediation confidentiality?

18 JUDGE CHAPMAN: Yes. Indeed I will. And, your Honor,
19 if I am anywhere near the line, please let me know and I will
20 stop on a dime.

21 We got here today first as a result of an initial
22 extension request that was made by the mediation team in a
23 December 1st filing. That extension request contained a number
24 of conditions. The condition primarily at issue today was the
25 following: That the Oversight Board shall promptly deliver to

1 the Ad Hoc Group and the Monolines, on a rolling basis, all of
2 the information on which the Oversight Board had relied in
3 formulating its current position in the ongoing plan
4 negotiations, with such delivery to be completed by the close
5 of business on December 2nd, 2022. That's in the extension
6 request. It's a matter of public record.

7 Your Honor, the word "all" meant all, and up until
8 that point, the document request had been extensive and had
9 been discussed over and over again. And, indeed, in connection
10 with the filing of the December 1st report, the mediation team
11 made it crystal clear specifically what it was looking for, and
12 on an included but not limited to basis.

13 There can be no doubt, respectfully, I'll say contrary
14 to Mr. Bienenstock's observation, that the documents that
15 emerged in the early hours of the morning, not several days ago
16 but yesterday morning, up until 3:00 a.m., prior to the time
17 that mediation was to commence at 9:30 in the morning, had
18 previously been requested multiple times. And while the
19 mediation team is well aware of the process of the Board in
20 connection with the fiscal plan and otherwise, the mediation
21 team is determined that these negotiations proceed based on
22 data and facts, and we believe that that's the only way that
23 there can be a sensible, well-informed negotiation.

24 So, your Honor, just to put a little more color on it,
25 because I think this is very important, December 2nd came and

1 went, and document production was obviously not complete.
2 Documents continued to be produced over that subsequent weekend
3 and into the week of December 5th. Another extension request
4 was filed as we were all staring down the deadline. The
5 mediators felt that it was important that the document
6 production be completed.

7 This is not simple stuff, your Honor. It's not a
8 matter of just documents, you know, in a box the way we all
9 grew up with. There are -- I don't want to get too granular,
10 but there's data, there's methodologies and the like that's all
11 required for the advisors to fully present a picture to the
12 parties so that they can negotiate.

13 Over the weekend, over the weekend of December 10th
14 and 11th, the Ad Hoc Group's advisors feverishly worked with
15 such information as had been provided in order to prepare for
16 ongoing meetings. We thought we were finally done, and then
17 low and behold, beginning at midnight through the night before
18 the mediation session that occurred yesterday, critical data
19 appeared for the first time.

20 And it does appear to us that it's not a matter of
21 simply that folks -- you know, this just happened and folks
22 didn't know it was there. I am unwilling to accept that
23 characterization. But I'm going to -- I'm going to try to stop
24 short, because I want to have a good and productive line of
25 communication and dialogue open with the Board's advisors, but

1 we do believe that they need to be held to account. A
2 tremendous amount of time and effort has been expended here,
3 your Honor. It could have gone differently, but we insist that
4 the process has integrity and that it be data based.

5 Your Honor, we think that what's been lacking here, in
6 addition to, you know, the data itself, is an overall
7 atmosphere of candor and cooperation. I expect to hear from
8 everybody. I want my phone to be ringing off the hook. It's
9 essential to the success of any mediation, and, in my
10 experience, that's what drives a successful outcome. So we
11 hope and we expect that going forward that will be the case
12 during this latest and presumably last extension request.

13 It's not just a matter of holding up the filing,
14 filing of the plan. These parties are big, big folks. They've
15 been -- they're very sophisticated. They know how to move
16 forward.

17 Your Honor, if the mediators are in a position to make
18 a proposal, which will be the case if the Board indicates its
19 willingness to make a material move, rest assured that the
20 mediators' proposal will be informed by the entirety of the
21 record, by everything that the mediators have been privy to,
22 and will take into account the newly disclosed data. We're
23 seeking a data-based solution that is fair to the creditors,
24 but, above all, is fair and in the best interest to the people
25 of Puerto Rico, and that ensures a solid future for PREPA.

1 Your Honor, if we're not in a position to make a
2 proposal and the plan has to be filed, we would ask that we
3 have an opportunity to come back before you, give you our
4 additional thoughts, and address scheduling matters.

5 Thank you, your Honor.

6 THE COURT: Thank you.

7 Mr. Bienenstock, you have your hand up again, and I
8 also see that Ms. Caton's hand is up. But first,
9 Mr. Bienenstock.

10 MR. BIENENSTOCK: Thank you, your Honor.

11 I have to very respectfully disagree with Ms. Chapman.
12 The Board and its -- the people doing the production did not
13 fail to comply with any condition or any request, and the
14 reason I can say that so definitively is that the conditions
15 and requests were to produce all information the Board relied
16 upon. The information that's been the subject of this hearing
17 is not information the Board relied on, and, in fact, it didn't
18 really know about it.

19 The reason it was produced at all, given that it was
20 not something that the Board had relied on, was that in a
21 Monday discussion with some of the creditors or their advisors,
22 there was a specific request for the type of information that
23 was, and when the Board looked, it found it and produced it
24 even though it had not relied on it. All that said, I am
25 extremely proud of the way the Board has methodically attempted

1 to continue to try to make consensual deals. It will continue
2 to do so. And we've made solid progress.

3 As your Honor knows, we've confirmed a lot of plans
4 where there were a lot of issues even more difficult than
5 these, and with creditors, and we hope to have the same success
6 here. And I think, directionally, we are exactly where the
7 mediators are, but I simply cannot leave the Board undefended
8 when it comes to the remarks that Ms. Chapman made.

9 THE COURT: Thank you, Mr. Bienenstock.

10 I think that there is clearly identified here ongoing
11 issues of clarity, trust, and candor that need to be attended
12 to continually to make that progress and to make sure that
13 there is an atmosphere in mediation that is constructive and in
14 which there are no unnecessary barriers. So everyone is a
15 grown-up. We all know what our goals are and what our duties
16 are. So I will urge you to, on all sides, err in the direction
17 of communication and substance and style that will facilitate
18 productive work. If there's any doubt as to whether something
19 would raise an unnecessary barrier or not, don't raise the
20 unnecessary barrier.

21 This is not a rocket science speech, but it is a
22 remark that comes from my concern about the dynamics hindering
23 progress. So --

24 JUDGE CHAPMAN: Your Honor.

25 THE COURT: Yes, Judge Chapman.

1 JUDGE CHAPMAN: Yes. I'm sorry. May I just have 30
2 seconds more, your Honor?

3 THE COURT: Yes, but I don't want this to end up being
4 a back and forth. So 30 seconds.

5 JUDGE CHAPMAN: I don't want it to be a back and forth
6 either, and I suppose we're going to have to agree to disagree.
7 The one thing I'll say is that, on the granular basis, the
8 dispute centers on a request that had been made over and over
9 again. And, beyond that, I think we're mincing words.

10 I did want to ask your Honor, I have two very
11 wonderful co-mediators, and I did want to ask your Honor if you
12 wanted to hear from them as well. So -- I didn't want to speak
13 to the exclusion of them. And with that, your Honor, I'll
14 conclude.

15 THE COURT: Thank you.

16 If either of the co-mediators who is on would like to
17 add a comment, please raise your hand now and I'll call on you
18 before I call on Ms. Caton.

19 So Judge Drain has just raised his hand.

20 Good morning, Judge Drain.

21 JUDGE DRAIN: Good morning, your Honor.

22 I agree with Judge Chapman's remarks entirely, and
23 would say that with all of the work that has been done, and
24 there's been a lot done to pull out information, because this
25 is ultimately a data-driven determination we believe, this is,

1 in our belief, the best time to reach an agreement with the
2 largest group of creditors. And we have tried very hard to
3 keep these deadlines as short as possible in light of that and
4 obviously the Court's concerns to move this process along.

5 JUDGE SHANNON: Good morning, your Honor. This is
6 Judge Shannon. I'll keep it very, very brief.

7 To the comments of my colleagues, me, too. I could
8 not agree more with the observations, and I do believe this is
9 both a critical time and a meaningful opportunity to try to
10 move forward with the process. And we are committed to it.

11 Thank you.

12 THE COURT: Thank you, Judge Shannon, and thank you,
13 Judge Drain.

14 Ms. Caton, did you -- I will now hear from
15 representatives of other parties in interest who wish to be
16 heard on the question of whether the extension should be
17 granted. I would ask that each speaker be as brief as
18 possible. I will have a beep sounded at three minutes and
19 another at five. Please don't make me get to the five. If you
20 can do it in under the three, that would be great, too.

21 So I think Mr. Kirpalani's hand is up.

22 Ms. Caton had her hand up, but it's no longer up. So,
23 Ms. Caton, if you wish to speak, put it up again, but first
24 I'll call on Mr. Kirpalani.

25 I'm sorry, Ms. Caton. You got your hand up right

1 away, so, Ms. Caton, you go first.

2 MS. CATON: Thank you, your Honor.

3 I appreciate it. Amy Caton on behalf of the Ad Hoc
4 Group of bondholders. I am going to be brief this morning, and
5 I want to note we did not request this extension, but nor did
6 we object. And I will be very careful about breaching the
7 confidentiality of the mediation and keeping my comments
8 productive.

9 I do want to note that Mr. Bienenstock, in his
10 statements about the document request, specifically have his
11 facts wrong, and we can leave that for another day. And I'm
12 also going to leave for another day when this data was actually
13 received, whose control it was in, but I do want to note, your
14 Honor, that these are really critical issues that we think
15 warrant full discussion and review at a later date, because
16 they really do go to the heart of mediation and the plan
17 process and the intent of the parties.

18 And I also want to note that while Mr. Bienenstock's
19 extension request states that the parties need time to
20 determine whether this information is meaningful or not, that,
21 again, without getting into the depths of the mediation, I
22 believe it was observed by all the parties, including the
23 mediators and Oversight Board's advisors yesterday that this
24 information was indeed important to review.

25 Finally, on this point, I do want to note that it's

1 our view that the Court mediators have tried everything in
2 their power not to just get to a deal here, any deal, but also
3 to understand the critical issues before them, and this is what
4 PREPA can afford to pay to its creditors and how PREPA's
5 electricity rates drive that question.

6 And we've done everything we could to try to answer
7 the mediator's questions on these critical issues, and I hope
8 that all of the parties have done the same. So I hope that the
9 Board members and their advisors have the opportunity to review
10 this data, discuss their next steps, and see where we go from
11 here. And I'm sorry that my description can't be more robust,
12 but I do think -- I think I've met the requirement of keeping
13 within the mediation privilege.

14 Finally, the Board's report yesterday notes that it's
15 reached a settlement with the Fuel Line Lenders, and towards
16 that settlement, I just again note that the Board continued
17 sort of statements about litigation with the bondholders rather
18 than focusing on trying to get a deal, in its comments to the
19 Court, bring us back to what is probably the intent of the
20 settlement, which is to create an impaired accepting class that
21 may be acceptable to your Honor. I think that that is also
22 going to have to be reviewed fully at another date.

23 So with that, I will conclude my remarks and thank
24 you, your Honor, for your time.

25 THE COURT: Thank you, Ms. Caton.

1 Mr. Kirpalani.

2 MR. KIRPALANI: Thank you, your Honor. Susheel
3 Kirpalani from Quinn Emmanuelli on behalf of Syncora Guarantee,
4 who is a member of the Ad Hoc Group. I'll be very brief.

5 Your Honor can probably tell from reading between the
6 lines of the pleading that was filed by the Board that they
7 have a plan that's ready to go. So thanks to the hard work of
8 the mediators, the Board is willing to continue hearing and
9 reacting to points of contention or disagreement, which is
10 positive.

11 I would just say if we don't reach a deal, your Honor
12 -- and we have in multiple scenarios been the leading voice in
13 getting to a deal. You know, that's what we're trying to do,
14 rather than litigate. The Board I feel, with some fresh eyes
15 that I could add to this process, has set up the litigation
16 schedule to claim objections only because they feel that gives
17 them the greatest amount of optionality without ever having to
18 reach threshold issues that will have to be answered by the
19 Court at confirmation. And it creates a bad dynamic for them
20 to deal.

21 I'm not going to go back through the history, but I
22 just want to alert the Court that if the deal can't be
23 negotiated, and I'm going to remain hopeful that we can, but if
24 a deal can't be negotiated based on all the relevant evidence
25 to be considered, we're going to come back to the Court at the

1 disclosure statement hearing phase and ask your Honor to find
2 points of intersection where the Court could lawfully exercise
3 its jurisdiction to determine some threshold issues that would
4 actually facilitate determining whether it's a good use of
5 judicial resources to entertain the plan along the lines of
6 what the Board has in mind currently.

7 Thank you, your Honor.

8 THE COURT: Thank you, Mr. Kirpalani.

9 Mr. Natbony. You're muted, Mr. Natbony.

10 MR. NATBONY: Can you hear me now?

11 THE COURT: I can. Thank you.

12 MR. NATBONY: Thank you.

13 Your Honor, first I need to apologize for not being
14 properly suited. I had a family crisis and had to fly away and
15 did not bring a suit. So I apologize to you. No disrespect is
16 meant.

17 THE COURT: Understood. My sympathies in your family
18 crisis. I hope that it is resolved well and quickly.

19 MR. NATBONY: Thank you, your Honor.

20 I'll be very brief. I just want to basically say, on
21 behalf of Assured -- William Natbony on behalf of Assured.

22 I want to reiterate and confirm and support the
23 comments of the mediation team and Ms. Caton and Mr. Kirpalani.
24 Assured stands ready, willing, and able to continue
25 negotiations in good faith to reach a deal relating to the

1 PREPA debt. We are hopeful, but, at the same time, have the
2 same concerns that have been previously expressed.

3 Thank you, your Honor.

4 THE COURT: Thank you, Mr. Natbony.

5 I have someone labeled as Creditors Committee. I
6 don't know if that's Mr. Despins or someone else, so Creditors
7 Committee representative -- it looks like Mr. Despins.

8 MR. DESPINS: Good morning, your Honor. I thought it
9 said Luc Despins.

10 THE COURT: Well, actually, it does now that you're
11 up. I couldn't read the full label in my side list.

12 Good morning.

13 MR. DESPINS: Good morning, your Honor.

14 So, obviously you know the Committee's position, I
15 will not restate it, but, you know, again, we are very
16 concerned about what's going on here. You know, counsel for
17 the bondholders really let the cat out of the bag saying, oh,
18 mediators are doing a great job because they're focusing on
19 PREPA'S ability to pay, and that's -- that was the words
20 expressed, so I'm not reading anything -- but that's the
21 problem.

22 The PREPA and the people of Puerto Rico should not pay
23 for something that they don't have to pay legally for,
24 regardless of what they can afford. And, by the way, there are
25 huge issues about what they can afford, but aside, there is a

1 threshold issue before the Court, and it is, is PREPA liable
2 for these billions of dollars of bonds. And, you know, I'm
3 very concerned, when I hear that the focus is apparently solely
4 or largely on the issue of ability to pay, and also I'm
5 concerned about -- I'm sorry.

6 THE COURT: I just want to say that I hear and
7 understand that concern, and understand that it is prompted by
8 a statement that was made intending to be with care not to go
9 into the substance of matters being discussed in the mediation.
10 So I will say that I am certainly aware of the parties'
11 consistent position as to the rights, if any, of these credits,
12 and I will shortly have fully briefed that merits dispute.

13 My schedule, in terms of attending to litigation,
14 hasn't changed, and so I would -- today I don't -- I would like
15 to avoid having discussions of the merits of positions while
16 still encouraging everyone to make, within the mediation
17 context, their -- themselves heard as to what is critical and
18 what isn't, or is less critical.

19 Sorry to interrupt, Mr. Despins. You can go on.

20 MR. DESPINS: Oh, yes, and, by the way, I was not
21 going to go into the merit of the claims. I just stated the
22 Committee's position, which is there is a threshold issue which
23 is, regardless of one's ability to pay whether there's a legal
24 entitlement to pay, and that's it. So I'm not going to go into
25 the merits of that.

1 I'm also concerned about having these exchanges in
2 open court about whether the Board is operating with candor.
3 By the way, you know we are no friend of the Board, and we've
4 had numerous battles with the Board, but, you know, this is a
5 pretty serious outfit with former Bankruptcy Judge Gonzalez in
6 there. And the implication that somehow the Board, with people
7 like Judge Gonzalez, would not be operating in full candor is
8 really troubling.

9 But I'm not involved, so I don't know -- meaning I'm
10 not part of these negotiations, so I cannot opine, but I would
11 say these are pretty serious allegations given the people
12 involved here. So I just want to state my position on that.

13 Thank you, your Honor.

14 THE COURT: Thank you, Mr. Despins.

15 Mr. Friedman, for AAFAF.

16 MR. FRIEDMAN: Yeah. Good morning, your Honor.

17 I think you know where AAFAF stands, as it has in
18 every facet of these cases over the last five, five and a half
19 years.

20 We support restructurings when they foster
21 reliability, resilience, a strong bridge. We don't, if they
22 can't --

23 THE COURT: I'm sorry. Mr. Friedman, you broke up
24 there. So if you can go back to "we support restructurings
25 where they foster reliability, resilience --" and then we

1 started to lose you.

2 MR. FRIEDMAN: Sorry. Affordability, sustainable debt
3 burdens, as Mr. Despina referenced, we think where they're
4 consistent with applicable law, in particular with respect to
5 PREPA, affordability is a real issue, to the extent that is
6 what this turns on, and obviously there are really important
7 legal issues, affordability is a major issue, it is a driving
8 factor, or certainly we believe strongly correlates with
9 poverty issues.

10 And the Court knows about the poverty levels in Puerto
11 Rico. This restructuring has to result in affordable
12 electricity rates for individuals, as well as industrial and
13 commercial customers, and if there isn't a deal in mediation
14 that reaches that, while that's a credible outcome from the
15 mediation perspective, from an overall perspective in Puerto
16 Rico, and what's supposed to happen under PROMESA, and what has
17 to happen for a successful Puerto Rico in the future, that may
18 be an okay result, or it is an okay result.

19 An affordable deal and a deal that reflects legal
20 rights is more important to us than seeing a mediated outcome
21 with a result that doesn't work for the people of Puerto Rico
22 and is inconsistent with AAFAF's mandate. We take the process
23 seriously. We've done that with mediators throughout, but the
24 process, as I said, I think to us, as sacred as it is and as
25 much as it needs to be respected by everybody who's a party to

1 it, as much as there needs to be an atmosphere of trust -- and
2 we do worry that what goes on at the hearings can sometimes
3 undermine that process. We think it -- the ultimate issue is
4 the bigger issue, is what is the outcome of this Title III
5 process.

6 Thank you.

7 THE COURT: Thank you, Mr. Friedman.

8 Mr. Bienenstock's hand had been up momentarily. I
9 don't see it up now. If he or anyone else wishes to be heard
10 before I decide --

11 Mr. Bienenstock, I see you on one monitor, but that
12 may not be because you've raised your hand. So --

13 MR. BIENENSTOCK: I don't need to say several things I
14 was going to say because of comments of Mr. Despins and
15 Mr. Friedman. I'll say that I have to say that I totally take
16 issue with what Ms. Caton said about incorrect facts, but one
17 fact, which is the key fact, that cannot be incorrect and she
18 cannot know about is what the Board relied on. And I know
19 personally and from my colleagues and other advisors, the Board
20 did not rely on the data she's talking about, because we didn't
21 even know we had it until Monday. But, again, it's sort of a
22 side show we think. But we hope there's a deal.

23 We have the constraints identified by Mr. Despins,
24 Mr. Friedman, the Bankruptcy Code provisions that require only
25 allowable claims be paid. And with that all said, we think we

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1 should just get back to the negotiations and see if we can do a
2 deal in the near term or, if not, in the medium term.

3 THE COURT: Thank you, Mr. Bienenstock, and thank you
4 all for your comments.

5 I am persuaded that it is in the best interests of
6 this process to grant the extension, and I am hopeful that, you
7 know, further and more informed communications can help the
8 parties reach a result that is -- if possible, that's
9 negotiated and that serves the key issues for Puerto Rico going
10 forward. And so the extension request is granted, and so that
11 takes the deadline to Friday, unless the Oversight Board
12 indicates that it is willing to proceed further, in which case
13 the deadline goes out until Wednesday for filing the plan. And
14 the extension request specifies the activity to take place
15 between Friday and Wednesday.

16 So I will sign the proposed order and, again, I thank
17 you all for speaking to this issue.

18 I now turn to item one on the agenda, the prepared
19 agenda, which is the status report of the Oversight Board and
20 AAFAF. I thank the Oversight Board and AAFAF for those
21 informative status reports.

22 Does the Oversight Board have any further comment to
23 its report?

24 MR. BIENENSTOCK: Thank you for asking, your Honor,
25 but we do not, unless the Court has any questions.

1 THE COURT: I do not have any questions. Thank you.

2 Does AAFAF have any comments further to report?

3 MS. VELAZ RIVERO: Good morning, your Honor. Carolina
4 Velaz-Rivero or Marini Pietrantonio Muniz for AAFAF.

5 We do not have anything further to add, unless your
6 Honor has any questions.

7 THE COURT: Thank you, Ms. Velaz. I do not have any
8 further questions.

9 If anyone has a question or further comment in
10 connection with the status reports, please raise your hand now.

11 I see no raised hands.

12 Item two, the fee application related matters, has
13 been dealt with in an order filed prior to this hearing, and
14 so, at this point, we can go on to the first matter which is
15 listed as uncontested, and that is the motion of the Oversight
16 Board for an order authorizing amendments to the ADR
17 procedures. I believe that Ms. Stafford is to be speaking to
18 that.

19 Ms. Stafford, would you please turn on your camera and
20 unmute yourself?

21 MS. STAFFORD: Yes. Good morning, your Honor. Laura
22 Stafford on behalf of Proskauer Rose on behalf of the Oversight
23 Board.

24 THE COURT: Good morning, Ms. Stafford, and welcome
25 back to these proceedings.

1 MS. STAFFORD: Thank you, your Honor. It's a pleasure
2 to be back.

3 THE COURT: Thank you.

4 MS. STAFFORD: I apologize, your Honor.

5 THE COURT: No. No. Please go ahead and make your
6 statement.

7 MS. STAFFORD: Of course.

8 So, as we noted in the agenda, we're not intending to
9 speak on this item unless the Court has questions, but just to
10 briefly summarize, the motion seeks to revise our ADR
11 procedures order for two limited purposes. First, to allow
12 objections to claims that have -- to claimants who have not
13 responded to offers or further offers in the ADR procedures,
14 and to allow the processing of administrative expense claims to
15 these procedures. We think in both instances it will help us
16 preserve the cost effective purposes of the ADR procedures,
17 while allowing us to represent the claims more efficiently.

18 So if your Honor has any questions, I'm happy to
19 answer them.

20 THE COURT: Thank you. I do have some concerns from
21 the Court administration point of view about efficiency, and
22 Judge Dein and I have put a lot of attention into this and have
23 some suggestions for some important tweaks to the proposed
24 procedures. So I'd like to lay them out now and hear you on
25 them. Of course it's my goal that the procedures continue to

1 provide opportunities for a cost efficient, consensual
2 resolution, but I do want to ensure that the Court's time and
3 resources, and especially the work of the people who have
4 agreed to work as mediators as necessary, is used wisely and
5 meaningfully, and not unnecessarily.

6 So, first of all, the proposed amendments to section
7 6(c), 7(b), and 7(c) to expand the scope of claims that can be
8 transferred to include administrative expense claims as defined
9 in the proposal is acceptable to the Court. It's fine. I
10 recognize that there is a need for it, and that that can help
11 to promote efficiency. The proposed amendment to 7(e), to
12 include a timeline for the filing of an informative motion
13 regarding resolved claims, is also something that will help us
14 continue to move along and process things through efficiently,
15 and so that's fine.

16 It is the proposed amendment to 3(f), which
17 contemplates, as it is written now, identification of the
18 evaluative mediation process, where a claimant has been
19 non-responsive to an offer or further offer, that raises some
20 concerns, the Court's concern is that, as written, the
21 initiation of evaluative mediation as the next step after, you
22 know, what seems to us could be a simple failure to respond to
23 an offer or a further offer, would not be an efficient use of
24 resources on our side at least, and also on the debtor's side,
25 because it could lead to the necessity for creation of an

1 evaluative mediation case and compilation and review of
2 materials where there is a claimant who has no actual intention
3 of engaging with the evaluative mediation process. As you
4 know, it is not until something is transferred into evaluative
5 mediation that we match it up with a mediator and that person
6 starts working, and so we think that an additional threshold
7 requirement, or a more robust requirement for the predicate for
8 an impasse notice would be helpful here.

9 So what I am suggesting, and we have particular
10 language but I'll just describe it conceptually, is that the
11 Oversight Board's impasse notice would have to include an
12 affirmative -- would have to be preceded by an affirmative
13 effort by the Debtor to elicit an indication that the
14 designated claimant, although it doesn't want to engage on that
15 offer, is, in fact, willing to engage in evaluative mediation.

16 So the additional language would be something to the
17 effect of, if the designated claimant is deemed to have
18 rejected an offer or further offer by failing to timely respond
19 to an offer or further offer, the offer exchange impasse notice
20 must include a certification that the debtor has been in
21 contact with the designated claimant and the designated
22 claimant has consented to proceed to evaluative mediation. So
23 that tells us when we get the impasse notice that the Debtor
24 does expect that there will be someone for us to talk to on the
25 other side, since mediation statements are optional and the

1 process, as currently written up, doesn't include a point of
2 engagement before the preparation of the evaluation, which may
3 not be very meaningful if there is only one-sided input.

4 So, similarly, we think that it is a salutary thing to
5 build on the Debtors' suggestion that there be some sort of
6 outreach by the mediator that would allow the mediator to
7 assess whether the person is engaging in the evaluative
8 mediation, but I'd like to tweak that a little bit and make it
9 a little bit more specific, so, basically, to add a provision
10 that says that if the designated claimant fails to submit a
11 mediation statement, then the mediator may solicit engagement
12 of the designated claimant in advance of the formulation of the
13 evaluation. That outreach by the mediator would include
14 notifying the designated claimant that failure to respond and
15 participate may result in the termination of the evaluative
16 mediation process. Then, if the designated claimant is not
17 responsive to the mediators' reasonable outreach efforts during
18 the evaluative mediation process at that time or at another
19 time that's material in that process, the mediator has the
20 ability to file a -- what we're calling a notice of
21 non-engagement, and the filing of a notice of non-engagement
22 would be an additional predicate event that would render an
23 evaluative mediation case an unresolved matter prior to the
24 preparation of evaluation in this instance where the designated
25 claimant is not responding in a way that enables the evaluative

1 mediator to move forward appropriately.

2 There are existing provisions on what happens with
3 unresolved claims, which we would not propose to change, we see
4 no need to change. So do you have questions about or concerns
5 about these suggested revisions?

6 MS. STAFFORD: No, your Honor. That all sounds very
7 reasonable and efficient to us.

8 THE COURT: Very good. So what I will do is file an
9 order with the specific language that we're suggesting, and
10 order you to file on presentment a revised note of order and
11 notice incorporating these concepts, and then we'll see if
12 there are any objections to that. There haven't been
13 objections to this change so far. Then we would have an order
14 and an amended process that I do believe will serve the goals
15 and help to expand the ability to address these claims
16 sufficiently.

17 For the record, I will state that I expect to approve
18 these amendments adjusted in the way that we've discussed
19 pursuant to the Court's broad authority to grant relief from a
20 final judgment or order pursuant to Rule 60(b)(6) of the
21 Federal Rules of Civil Procedure. I've evaluated the requisite
22 factors, which include whether the application's timely,
23 whether exceptional circumstances warrant amending the ADR
24 Procedures Order, and whether the proposed amendment unfairly
25 prejudices claimants. See Liljeberg v. Health Services

1 Acquisition Corp., 486 U.S. 847 (1988), and Bouret-Echevarria
2 v. Caribbean Aviation Maintenance Corp., 784 F.3d 37, 43 (1st
3 Cir. 2015).

4 I find that the motion is timely; and that the
5 Commonwealth Plan of Adjustment recently became effective on
6 March 15th, 2022; that a need exists for an additional,
7 efficient process for liquidating administrative expense
8 priority claims; and that the interests of justice and
9 efficiency require a mechanism for terminating the evaluative
10 mediation process if a party begins but disengages from
11 participation in the evaluative mediation process.

12 So I will file that order with suggested language for
13 incorporation into the revised procedures. I did have one
14 other question for information and context for our team. Can
15 you preview for us the types of administrative expense claims
16 that you anticipate would be transferred into the ADR process?

17 MS. STAFFORD: At this time, I don't have a clear
18 sense of exactly which types of administrative expense claims
19 we might be anticipating would go into the process. Our review
20 of those administrative expense claims is ongoing, but I'm
21 happy to provide more information as we start to develop it
22 over the next few months.

23 THE COURT: Alright. We will await further
24 developments.

25 MS. STAFFORD: Thank you.

1 THE COURT: Thank you very much.

2 That concludes Item III.1 of the Agenda, which is the
3 motion of the Oversight Board that was filed at Docket Entry
4 No. 22936 in 17-3283.

5 Thank you, Ms. Stafford.

6 MS. STAFFORD: Thank you, your Honor.

7 THE COURT: So next we move to the contested matters
8 in section IV of the Agenda, the first of which is the motion
9 of the Bonistas Del Patio for payment of certain professional
10 fees and expenses by the Commonwealth, and I have as the
11 opening speaker Mr. Bernstein for six minutes.

12 Are you there, Mr. Bernstein?

13 MR. BERNSTEIN: I am. Can you hear me?

14 THE COURT: Yes. Good morning.

15 MR. BERNSTEIN: Good morning. Thank you, your Honor.
16 Don Bernstein from Davis Polk & Wardwell for the Bonistas Del
17 Patio, Inc.

18 A lot of this is going to seem like ancient history,
19 because it's related to the COFINA case, so I hope you'll bear
20 with me. So Bonistas Del Patio requested entry of an order for
21 payment of \$2 million in professional expenses for their
22 lawyers, Davis Polk and \$5 million of professional expenses of
23 their financial advisors, Ducera Partners. These were incurred
24 in connection with --

25 THE COURT: Mr. Bernstein, I need you to slow down,

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1 because the signal is not so consistent. You're breaking up a
2 little bit, so the court reporter is having trouble and I am,
3 too.

4 MR. BERNSTEIN: Okay. Hopefully I can get my comments
5 within the requested timeframe, but, if not, I hope you'll
6 indulge me at the end if necessary.

7 THE COURT: Yes. Also, bear in mind that, yes, I was
8 there in COFINA. I've also read all of your papers. I'm going
9 to stop the clock for a minute, because this may help you. My
10 particular issues of concern go to the -- well, first all, the
11 fact that Bonistas' sort of status within these proceedings,
12 2019, has never been filed for Bonistas' year, not -- your
13 client isn't itself a creditor, it's not an intervenor, and so
14 there's the 2019 question.

15 I do want to make sure that I understand well your
16 theory as to why these expenses should be considered as having
17 been incurred by the Commonwealth or COFINA within the meaning
18 of section 15.2, and if they weren't incurred by the
19 Commonwealth or COFINA, what basis there would be for approval
20 under section 15.2 of the plan.

21 Then I also have a concern about Bonistas' standing to
22 present the application given that the representation is that
23 Bonistas has no liability for these expenses. The other big
24 one is, to the extent the application's made under 503(b)(4),
25 Ducera is not an accountant and is not a law firm, and so how

1 503(b)(4) would apply. I give you this preview without
2 prejudice of my ability to ask further questions as we go
3 along, but I'm hopeful that that will help you direct your
4 remarks in the most efficient way.

5 MR. BERNSTEIN: That is helpful, and I will use my
6 time accordingly. So let me address Bonistas' and -- the 2019
7 issue first. Now, Bonistas really is not for profit. It was
8 there to represent 60,000 bondholders, you know, who were
9 on-island holders. Everyone recognized that that was a proper
10 role for Bonistas, despite the fact it wasn't itself a
11 creditor.

12 And we also were extremely scrupulous about not
13 presenting ourselves as anything other than a not for profit
14 who was there in the interest of all bondholders on the island.
15 And, in fact, we took a role that was essentially an honest
16 broker role. And I think that's been commented on before you
17 by some of the creditors in the case, because we had
18 constituents who were in all three categories of bonds, we had
19 people who were Commonwealth bondholders, we had people who
20 were COFINA seniors, we had people who were COFINA juniors, so
21 we really were taking a point of view not of any individual
22 bondholders, but connectively on behalf of the island, not to
23 mention the fact that our constituents are taxpayers and also
24 suffer the reduction of services from any fiscal plan or
25 bargaining between COFINA and the Commonwealth.

1 So, in terms of 2019, I don't think we were required
2 to file, but we had a role that was recognized by all parties
3 as an extremely important role, because parties had to
4 communicate with the on-island bondholders and also parties
5 needed to understand what the views were, because at one point
6 during these negotiations, the on-island bondholders had over
7 \$10 million of bonds.

8 So there was nobody there to negotiate. The on-island
9 holders couldn't afford to be part of the mediation, or many of
10 them couldn't. So we were there as a way of conveying those
11 views, and also we were requested by the parties to be there.
12 We were requested to be party to the PSA. We were named
13 numerous times in the plan and disclosure statement. We were
14 referred to in the order of the Court confirming the plan. So
15 we were an essential component of this despite not being
16 creditors, so that's the first thing.

17 So let me -- and if you have questions on any of this,
18 let me know. On the question of being incurred -- so there was
19 a long history here, your Honor. It goes back even before
20 2017, and, you know, our role on behalf of the Bonistas started
21 in 2017, that summer. But Bonistas had been in conversations
22 with the government and even the Board about the fact that, to
23 participate in these negotiations, it needed professionals, and
24 of course, since it was a not for profit, it had no resources
25 to pay, so the expectation on the part of all parties,

1 including the government parties, was that if Bonistas was
2 going to participate actively, resources would have to be found
3 for payment of their professionals. And, you know, over time,
4 again and again, the participation of Bonistas and their
5 professionals was requested by the parties. That included even
6 after the mediation deal was struck.

7 (Sound played)

8 MR. BERNSTEIN: Bonistas had to go out and communicate
9 with bondholders about the plan. They held a webinar. They
10 held conversations and meetings with bondholders at large.
11 They really were working on behalf of the government parties in
12 order to get the deal done, and, in fact, there were comments
13 made at the disclosure statement hearing and the confirmation
14 hearing about Bonistas' role in that regard. And, in fact,
15 Bonistas has helped to locate on-island bondholders who
16 appeared at the hearing, so they were able to express their
17 views.

18 So, your Honor, again, whether you call that -- that
19 sort of request to do things and expectation that the fees will
20 be paid as documented by the way -- by letters that were
21 received from AAFAF and also the stipulation that was filed
22 before the Court in 2019 --

23 THE COURT: That stipulation was withdrawn, correct?

24 MR. BERNSTEIN: It was withdrawn. It was withdrawn.

25 THE COURT: AAFAF said -- I'm interrupting you again.

1 AAFAF said in the letter that it wouldn't object to some
2 obligation or provision that would obligate it, but I don't see
3 anything that is a written undertaking by AAFAF or any other
4 Commonwealth entity, either before the services were rendered
5 or indeed as we stand here today afterward, to pay these
6 expenses as Commonwealth expenses.

7 MR. BERNSTEIN: Your Honor, I'm not going to belabor
8 that point now. You've seen what we said in the brief about
9 it, but that was within the reasons that we were also making
10 this substantial contribution application. And of course if
11 the Court finds that we are entitled to payment for substantial
12 contribution, then the obligation is an obligation of either
13 COFINA or the Commonwealth or both. And under 15.2 in the
14 plan, it's been incurred and is supposed to be paid by the
15 Commonwealth.

16 So that's the second arrow in this quiver, is that, as
17 a substantial contribution, if there's an administrative
18 expense, that administrative expense is an incurred obligation
19 that's required to be paid under the plan.

20 (Sound played)

21 THE COURT: An incurred obligation not of the creditor
22 but of the Commonwealth, and your argument for it being
23 incurred is this atmosphere of expectation and invitation to
24 represent Bonistas as a participant in negotiations?

25 MR. BERNSTEIN: No, your Honor. Your Honor, I think

1 it's two-fold. I think that is the first prong, which would be
2 sort of a quasi contract prong reliance and the like, but,
3 again, I don't want to belabor that. I think the second prong
4 is Bonistas itself made a substantial contribution to the case,
5 and if they did, they're entitled to have their professional
6 expenses paid to the extent approved by the Court under 503(b).

7 And once the Court reaches that conclusion, that
8 Bonistas is entitled to have them paid, as I said, because of
9 its substantial contribution, then they're an incurred
10 obligation of the Debtors. So at that point, once they've been
11 incurred, the plan provides that obligations with respect to
12 these negotiations that we're talking about, that have been
13 incurred by the Commonwealth, are supposed to be paid under
14 section 15.2 of the plan.

15 THE COURT: Thank you. You can go on.

16 MR. BERNSTEIN: Okay, your Honor. And that also I
17 think addresses to some degree the standing issue. Obviously,
18 one of the problems with representation of a party is that if
19 they don't have the wherewithal to pay, you know, you can still
20 work on a contingency, and one of the contingencies here was
21 getting approval for payment of expenses through the Court
22 proceedings and from the parties.

23 So, you know, I don't think the issue of incurrence is
24 a bar to standing to request substantial contribution approval
25 of the Bonistas' expenses.

1 Let me address the Ducera Partners' issue under
2 503(b)(4). And this also covers some of the other issues that
3 perhaps the committee has raised in some of the pleadings a few
4 years ago. If you look at the First Circuit rulings on the
5 questions of the scope of 503(b), they focus on the fact that
6 503(b) is not exhaustive, it's not an exhaustive list of
7 expenses that are to be paid.

8 And, in fact, subsequent to the First Circuit's ruling
9 on that issue, the Sixth Circuit actually took up the scope of
10 503(b)(3), and in that particular case, and I can give you the
11 citations if you would like them, your Honor, the Sixth Circuit
12 actually looked at this question. And they took the same view
13 as the First Circuit about the word "including" in 503(b) so
14 it's a non-exhaustive list. And what they said was in that
15 particular case, even though Chapter Seven is not mentioned in
16 503(b)(3) on substantial contribution, the payment can still be
17 authorized because the list of people or situations where
18 payment is warranted under the substantial contribution test in
19 that subsection is not exhaustive.

20 And so the Court has discretion to allow, in cases of
21 substantial contribution, other than in a Chapter 7 case -- in
22 a Chapter 11 or Chapter 9, and the Court found that in a
23 Chapter 7, you would make those payments even though Chapter 7
24 wasn't referred to. And, in doing that, the Court also refers
25 to the fact that many, many parties can make a contribution to

1 the case, and so the whole section is really illustrative and
2 non-exhaustive. And I can give you the citations to those
3 cases if you'd like.

4 THE COURT: Are the citations in your submission?

5 MR. BERNSTEIN: I think the citations are in our
6 submission, your Honor.

7 THE COURT: Alright. If they're in your submission,
8 then I don't need you to repeat them here.

9 MR. BERNSTEIN: Thank you, your Honor.

10 That applies to the Ducera issue, because the same
11 issue arises in reference to attorneys and accountants.
12 Financial advisors certainly have been considered for
13 compensation. Some courts have indicated that they would be
14 eligible. But a number of cases the financial advisors are
15 simply financial advisors for a bidder and they bid for the
16 company, a failed bid, and the question is, because they're a
17 stalking horse, can they get their professionals compensated,
18 did they make a substantial contribution.

19 I think the courts in those cases have denied by and
20 large the compensation, but the role here Ducera had was very
21 different. They were working here with the attorneys as part
22 of the negotiation. They were in the negotiations. You could
23 even say that they were working on behalf of the attorneys,
24 because we were working hand-in-hand with them, your Honor, in
25 order to conduct the negotiations on behalf of Bonistas.

1 Mr. Myer has indicated there were 351 meetings and
2 calls in which he participated on this matter, and many of
3 those were, as other parties in the case have indicated, with
4 the professionals for those parties. And obviously some of
5 those professionals were expressly paid under the plan, because
6 they were professionals for creditors. And here we were
7 representing an extremely large creditor class, but because
8 none of them were in our client group, we did not share in any
9 of that compensation that went to creditors.

10 So, your Honor, I think -- I think the First Circuit
11 and Sixth Circuit precedents are very relevant to the scope of
12 503(b)(4). And I think, under that standard, certainly
13 Ducera's work should be included.

14 Your Honor, do you feel willing to accept the Resnick
15 Declaration, which was originally filed a number of years ago
16 but, again, was attached to our motion? We'd like to put that
17 in as Exhibit One. And Mr. Resnick is with me in the
18 conference room and is available for direct testimony should
19 you desire it, Judge. I know that you want to accelerate the
20 schedule here, but he is available and he's obviously available
21 to the extent anyone needs cross-examination.

22 THE COURT: Well, to the extent that I get across the
23 threshold issues of eligibility for payment, I do have a
24 concern -- I do accept the Resnick Declaration, which you've
25 tendered in your written submissions, but even that is -- it's

1 a characterization at very high level of the work that was
2 done, and, yes, I'm not sure that -- yes, I don't think that
3 testimony here today would solve that issue --

4 MR. BERNSTEIN: Your Honor.

5 THE COURT: Yes.

6 MR. BERNSTEIN: I was just going to say we did supply
7 the Fee Examiner with extensive backup, and, as you've seen,
8 the Fee Examiner concluded that the fees were reasonable and
9 necessary, et cetera. So we'd -- I was personally involved in
10 all of the negotiations, and if you have questions for me, I'd
11 be delighted to answer them within the confines of mediation
12 confidentiality.

13 THE COURT: I accept that proffer. I will now turn to
14 the UCC's argument, and we'll talk about next steps when you
15 come back.

16 MR. BERNSTEIN: Okay. Thank you, your Honor.

17 THE COURT: Thank you.

18 MR. DESPINS: Good morning, your Honor.

19 We actually were going to rest on our pleadings, your
20 Honor.

21 THE COURT: Alright. I have reviewed those pleadings.

22 So, Mr. Bernstein, it seems that the -- and you may
23 even be saying this, the services that were provided were
24 similar to the type of involvement of a representative of
25 another creditor representing the creditor's interests, and so

1 you were advocating for the membership of Bonistas as a
2 creditor and marshaling support for positions that you believed
3 were in the best interests of your clients. Typically, service
4 providers don't get paid for a substantial contribution for
5 doing what they should be doing as advocates for their clients,
6 and so would I be correct in hearing you to say that there was
7 an extraordinary gap in the circumstances that renders your
8 work a substantial contribution because it supplied advocacy
9 that was necessary for negotiations, because there was no other
10 source?

11 MR. BERNSTEIN: Your Honor, I would say that, and let
12 me explain why. Because this was a gating issue for the
13 Commonwealth Plan, that the COFINA case be resolved. The major
14 negotiating parties were the COFINA agent -- the Commonwealth
15 agent in the person of Mr. Despina, and also the three main
16 creditor constituencies, the senior COFINA bonds, the junior
17 COFINA bonds, and the Commonwealth GO bondholders. All of
18 those people had to be present, but every single one of them
19 had a monochromatic parochial interest. The only party that
20 stood among all of those parties who did not have a
21 monochromatic interest was Bonistas Del Patio, and that is why
22 they were so integral to the negotiation.

23 We had to see everything from all perspectives and try
24 to facilitate, as the mediators were trying to facilitate, a
25 fair deal, because, as I say, not only did we have billions of

1 dollars of bondholders in all three classes, but we also had
2 60,000 taxpayers who were going to bear the cost of whatever
3 the result was. And the cost in -- are two different ways,
4 through taxes and through reductions in services.

5 So we had a role that was much more akin to -- I'm not
6 going to say a mediator, but an honest broker. And, frankly,
7 there were meetings at Davis Polk's offices among the creditor
8 groups because of the position Bonistas was in.

9 Let me say that, without going further on the -- you
10 know, with respect to mediation confidentiality, but we were in
11 a pivotal role in that entire process. And I think the fact
12 that we were one -- you know, in addition to the bondholders,
13 we were one of the parties to the PSA. We had approval rights
14 under the plan over the documents. Just as with the government
15 parties and the bondholders, Bonistas were mentioned as having
16 approval rights over the confirmation order, which was a
17 condition, approval rights over any waivers. You know, our
18 consent was required for effectiveness, so, you know, it wasn't
19 a coincidence that we were there even though the three other
20 constituencies were all represented.

21 The fact is we had a unique perspective that wasn't
22 being brought to the table by any of those constituencies and
23 wasn't being brought to the table by the Commonwealth
24 Committee, as the Commonwealth Agent, or by the COFINA agent.
25 And, your Honor, again, nobody should take too much credit for

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1 anything, but I think Bonistas deserves a lot of credit for
2 keeping the parties together and moving things along. And I
3 can only say I think the people who were in the room would
4 agree.

5 (Sound played)

6 THE COURT: Thank you.

7 MR. BERNSTEIN: Your Honor, if you have any other
8 questions --

9 THE COURT: Pardon?

10 MR. BERNSTEIN: I said, if you have any other
11 questions, I'd be delighted to answer.

12 THE COURT: I actually have a question for the
13 representatives of the Oversight Board and AAFAF, who have not
14 made any submissions on this motion, which strikes me as
15 curious given the representations that all of this work that is
16 argued to be a substantial contribution for which the
17 Commonwealth had undertaken to pay.

18 So right now, I will give first the Oversight Board
19 the opportunity to make any statement it wishes to make in this
20 connection.

21 Mr. Bernstein. I'm sorry. Mr. Bernstein, did you
22 want to say something?

23 MR. BERNSTEIN: Yes. He's on mute. I can't hear
24 Mr. Rosen.

25 THE COURT: Okay. I'm not even seeing Mr. Rosen.

1 So, Mr. Rosen, would you unmute yourself and have your
2 camera on? There you are, Mr. Rosen.

3 MR. BERNSTEIN: I'm seeing him, but I'm not hearing
4 him.

5 THE COURT: You still have to unmute, Mr. Rosen, or at
6 least I'm not hearing you. Still not hearing you.

7 It looks like he's going to telephone in.

8 MR. ROSEN: Your Honor, can you hear me now?

9 THE COURT: Yes, I can hear you now. Thank you.

10 MR. ROSEN: So we'll try to do it by phone until we
11 figure out our other issues.

12 You're going to have to mute that. Thanks.

13 Your Honor, can you still hear me?

14 THE COURT: Yes, I can.

15 MR. ROSEN: Okay. Thank you, your Honor.

16 Your Honor, yes, the Oversight Board -- as you know, I
17 was intimately involved in the COFINA confirmation process and
18 negotiation of the plan support agreement, and, actually, was
19 the draftsperson of that document. Your Honor, the Oversight
20 Board up until this moment in time has chosen to allow the
21 Bonistas to file their application and not take a position with
22 respect to it. While the Oversight Board does have a position,
23 I would ask that the Court allow me to go back to the Oversight
24 Board and to put together a statement that it would file with
25 the Court stating clearly stating what the Oversight Board's

1 position is at this time.

2 I think for me to do it just now would -- I may not
3 capture all the views of the members of the Oversight Board and
4 the other professionals who are involved.

5 THE COURT: I will permit that. Thank you.

6 MR. ROSEN: Thank you, your Honor.

7 THE COURT: That was Mr. Brian Rosen representing the
8 Oversight Board.

9 I don't think we got your full name into the
10 transcript when you started speaking.

11 MR. ROSEN: Thank you, your Honor.

12 We'll start trying to fix the video for the subsequent
13 hearing.

14 THE COURT: Good. We'll have a break within the
15 subsequent hearing.

16 Mr. Friedman, for AAFAF, is there anything you'd wish
17 to contribute here?

18 MR. FRIEDMAN: Good morning, your Honor. Peter
19 Friedman for O'Melveny & Myers on behalf of AAFAF.

20 What I would say is AAFAF was certainly involved in
21 the process of mediation, particularly after a deal was reached
22 on the economic split, but while many, many, many issues remain
23 to be resolved around the treatment of local bondholders, and
24 we did recognize Bonistas -- the real work they did,
25 particularly in that phase, which was the phase we were most

1 involved with, we do believe that their joining the RSA was
2 important. They played an important role in the
3 Commonwealth-COFINA settlement, was extremely important with --
4 you know, we acknowledge their impact in bringing local
5 bondholders and representing local bondholders was really
6 important.

7 So we are sympathetic to their request, and, you know,
8 it's not something AAFAF has the power on its own to do. We
9 did file something early in the case seeking to have a payment
10 made. The Court raised, you know, it's concerns and sort of
11 put a halt to the process, but we don't have an objection to
12 this because we recognize the contribution that Davis Polk and
13 DCR made on behalf of their client, which we did think played
14 an important role here.

15 THE COURT: So you don't have an objection to the
16 argument that the services -- this important role was played at
17 the invitation and in the expectation that the Commonwealth
18 would ultimately -- well, this is an application in the
19 Commonwealth case.

20 MR. FRIEDMAN: Yes.

21 THE COURT: That the Commonwealth would ultimately pay
22 for the expenses of that representation and financial advice?

23 MR. FRIEDMAN: That's right, your Honor.

24 I would state two things: One, it can't be COFINA,
25 right? We definitely understood, thought, believed that COFINA

1 would be the payor, so we think the Commonwealth is the right
2 payor, if there is a payor, because of the value this
3 settlement brought for the Commonwealth, and we also do think,
4 you know, we made representations that we would not be
5 objecting or that we understood that this work was being
6 undertaken with the prospect of them being paid by the
7 Commonwealth.

8 Certainly it's not something AAFAF could pay for. The
9 Commonwealth would be the logical payor. And so we don't have
10 an objection to their making that representation.

11 I wasn't there perfectly at the time -- you know,
12 exactly at the time, I can't testify, but it is my
13 understanding that's why they undertook this obligation and
14 that the work they did was helpful.

15 THE COURT: Thank you, Mr. Friedman.

16 Mr. Rosen has his hand up again.

17 MR. ROSEN: Thank you, your Honor. I only raised my
18 hand because I think we needed the Court to unmute us off of
19 the other system and then we could speak through that.

20 THE COURT: My deputy here is telling me that you were
21 unmuted on our system already.

22 MR. ROSEN: We'll try again. Hold on, your Honor.

23 Okay. So --

24 THE COURT: Yes. I'm seeing that our screen is giving
25 us the option of muting you, not unmuting you.

1 So do you want to just click him mute and then unclick
2 him again just in case there's some glitch there?

3 Okay. We've just clicked you to mute, and now we're
4 going to find you and unmute you I think. Yes. You are now
5 unmuted again on our system.

6 I still can't hear you. I can't hear you with the
7 phone now.

8 MR. ROSEN: Can you hear me, your Honor?

9 THE COURT: Yes.

10 MR. ROSEN: Your Honor, can you hear me?

11 THE COURT: Yes. Can you hear me?

12 MR. ROSEN: Alright. We will disconnect and re-login,
13 your Honor. We'll figure out what the problem is here.

14 THE COURT: Alright. So, before you disconnect and
15 before we break, I will take this matter under advisement.

16 I will not ask for any additional testimony today. I
17 will accept by December 28 a submission on behalf of the
18 Oversight Board as to its position, and any further
19 supplementation, written supplementation of legal arguments or
20 factual representations that the movant may wish to tender in
21 light of the discussion and the Court's questions, and then,
22 unless the Court reaches out for further input or there's a
23 request from the UCC or anyone else to make a further response,
24 the matter will be under advisement and decided on those
25 augmented submissions.

1 Mr. Bernstein, is there anything further that you'd
2 like to say before we move away from this agenda item?

3 MR. BERNSTEIN: No, your Honor.

4 I just want to thank you for considering this
5 carefully, and we will review the questions you asked and take
6 you up on making another submission.

7 If we see something that is in Mr. Rosen's pleading
8 that we feel we need to respond to, could we get a day or two
9 to do that?

10 We don't know what he's going to file or say, and it
11 would be helpful to have an opportunity to respond if
12 necessary.

13 THE COURT: Yes. So the first submission date is
14 December 28. Any response to that further submission -- we'll
15 give you another week, which I think would be January 4th or
16 January 5th, but I don't have my calendar up right in front of
17 me now. Actually, I figured out January 4th.

18 Is that okay?

19 MR. BERNSTEIN: Okay, your Honor. Thank you very
20 much. Yes.

21 THE COURT: Thank you.

22 Alright. At this point we have two contested claim
23 objections, and it is also 20 minutes past 10:00, so what we'll
24 do is take a break at this time of ten minutes and reconvene at
25 10:30 Eastern, 11:30 Atlantic Standard.

1 Those who are on the listen-in line, please just put
2 your line on hold and come back in ten minutes. Thank you very
3 much. We are adjourned.

4 (Recess)

5 THE COURT: Good morning again. This is Judge Swain.

6 We are now resuming the Omnibus Hearing. The next
7 agenda item, which is number IV.2, is the 453rd Omnibus
8 Objection to claims, which is Docket Entry No. 20784 in
9 relation to the response of Maria Figueroa-Torres.

10 So I have Ms. Osaben starting with remarks for the
11 Oversight Board.

12 MS. OSABEN: Good morning, your Honor. Can you hear
13 me?

14 THE COURT: Yes, I can. Good morning.

15 MS. OSABEN: Good morning. Libbie Osaben of Proskauer
16 Rose on behalf of the Oversight Board.

17 At the November Omnibus Hearing, the Court heard
18 argument regarding the objection to the 453rd Omnibus Objection
19 filed by Maria Torres with respect to Proof of Claim No.
20 179281-1 at ECF No. 21310. The Court may recall the claimant
21 asserts liabilities against the Commonwealth for wages for work
22 the plaintiff performed at the Ponce District Hospital. As the
23 Ponce District Hospital seems to be a part of the Department of
24 Health and thus seems to be a part of the Commonwealth, in
25 2000, bifurcated the claimant's claim into two claims, one

1 claim for the period when the hospital was a part of the
2 Department of Health and one claim for the period when the
3 hospital was no longer a part of the Department of Health.

4 At the hearing and in a subsequent order at ECF No.
5 22798, the Court directed the Oversight Board to file a
6 supplement brief providing evidence that the Ponce District
7 Hospital is not part of the Department of Health of the
8 Commonwealth. The Oversight Board on behalf of the
9 Commonwealth filed a supplement brief providing such evidence
10 as ECF No. 22928. The Oversight Board included as Exhibit A to
11 the supplemental brief a letter to the claimant dated May 26,
12 2000, which explains that pursuant to Act 31 of July 6, 1997,
13 the Ponce District Hospital was transferred to private
14 ownership for management and operation, and that such transfer
15 became effective on July 1st, 2000.

16 Accordingly, the Ponce District Hospital is not a
17 Title III debtor or an agency of any of the debtors. The
18 Oversight Board reiterates to the extent the Commonwealth is
19 liable to the claimant with respect to work performed by the
20 claimant for the Ponce District Hospital prior to July 1, 2000,
21 such liability will be determined in accordance with the
22 resolution of proof of claim 179281. That proof of claim has
23 been transferred to ACR and at this time is not subject to
24 objection.

25 For the foregoing reasons we respectfully request that

1 the Court sustain the 453rd Omnibus Objection with respect to
2 Proof of Claim No. 179281-1 and disallow the claim.

3 THE COURT: Thank you.

4 I have a couple of questions for you. Just to be
5 clear, the claimant filed a claim as 179281 with supporting
6 documentation, and was it the Oversight Board that determined
7 to create 179281-1 as a bifurcated separate claim representing
8 claims in connection with employment, if any, after June 30th
9 of 2000?

10 MS. OSABEN: That is correct, your Honor.

11 THE COURT: That letter that the Oversight Board
12 referred to in the supplemental submission, the May 26, 2000,
13 letter, appears to have been part of the original submission by
14 this claimant which also included salary documentation and
15 other documentation of work at the Ponce District Hospital that
16 all seemed to predate the July 1, 2000, date, and so was there
17 anything concrete that gave the Oversight Board concern that
18 the claimant is, in fact, seeking to recover for compensation
19 after the DX session of the hospital facility?

20 MS. OSABEN: I believe it was out of an abundance of
21 caution.

22 THE COURT: Alright. Is Ms. Figueroa-Torres'
23 attorney, Vanessa Hernandez-Rodriguez, present to speak?

24 She is not signed into Zoom.

25 Did you have any indication, Ms. Osaben, that

1 Ms. Hernandez-Rodriguez intended to come to speak?

2 MS. OSABEN: We did not. We reached out to her but
3 did not receive a response.

4 THE COURT: Alright. Very well. I will make a ruling
5 based on the record before the Court.

6 Pending before the Court is the 453rd Omnibus
7 Objection, non-substantive, of the Commonwealth of Puerto Rico,
8 the Employees Retirement System of the Government of the
9 Commonwealth of Puerto Rico, and the Puerto Rico Highways and
10 Transportation Authority to claims asserting liabilities owed
11 by entities that are not Title III debtors.

12 That is Docket Entry No. 20784 in case 17-3283, which
13 I'll refer to as the Omnibus Objection filed by the Financial
14 Oversight and Management Board for Puerto Rico. The Omnibus
15 Objection seeks disallowance of several proofs of claim,
16 including Proof of Claim No. 179281-1 filed by Maria C.
17 Figueroa-Torres, who I'll refer to as the claimant. The
18 objection is on the basis that the claims represented by that
19 claim number, arose out of debts allegedly owed by non-Title
20 III debtors.

21 This Claim No. 179281 was created as a place holder by
22 the Oversight Board by bifurcating the proof of claim that was
23 filed by the claimant. So the claimant currently has two
24 proofs of claim, one is No. 179281, which now represents
25 compensation allegedly owed by the Department of Health arising

1 out of claimant's employment prior to July 1 of the year 2000
2 and claim no. 179281-1, representing any claim for compensation
3 owed by the Ponce District Hospital following the privatization
4 of the hospital and the termination of claimant's employment
5 with the Department of Health.

6 Only Claim No. 179281-1 is subject to the Omnibus
7 Objection, so I will refer to that in these remarks as the
8 "Subject Proof of Claim." In opposition to the Omnibus
9 Objection, the claimant contends that her claim arises from
10 services she provided to the Ponce District Hospital during a
11 time when the hospital was part of the Puerto Rico Department
12 of Health, which itself was part of the Commonwealth
13 Government.

14 The Court has carefully considered the pleadings
15 submitted by the Oversight Board and the claimant concerning
16 the Omnibus Objection, as well as the arguments on behalf of
17 the Oversight Board today, and for the following reasons the
18 Omnibus Objection is sustained as to the subject proof of
19 claim.

20 A proof of claim which comports with the requirements
21 of Bankruptcy Rule 3001(f) constitutes prima facie evidence of
22 the validity and amount of the claim. *In re Hemingway*
23 *Transport, Inc.*, 993 F.2d 915, 925 (1st Cir. 1993). However,
24 if a debtor proffers an objection supported by substantial
25 evidence, the burden of demonstrating the validity of the claim

1 shifts to the claimant.

2 Claimant's original proof of claim included, as part
3 of its documentation of the validity of her claim, a letter
4 dated May 26, 2000. That letter gave notice to the claimant
5 that her employment with the Puerto Rico Department of Health
6 would be terminated as of June 30th, 2000, because the
7 government had privatized the hospital at which she was
8 employed.

9 That state of affairs is consistent with the
10 certification from the Commonwealth Health Services and
11 Facility Administration that claimant included with her proof
12 of claim, which states that claimant's employment as a nurse
13 ended on June 30th, 2000. In light of that documentation,
14 stating that claimant's employment with the Commonwealth ended
15 on June 30th, 2000, the Oversight Board has established a
16 sufficient record that any services to the hospital provided by
17 claimant after that point are not liabilities of the
18 Commonwealth or any other Title III debtor.

19 The Oversight Board has, thus, rebutted any prima
20 facie validity that the Subject Proof of Claim, which covers
21 only claims against the Ponce District Hospital arising after
22 June 30th, 2000, may have had, and claimant has not
23 demonstrated any basis for any claim against the Commonwealth
24 or any other Title III debtor arising out of employment after
25 June 30th, 2000, with the Ponce District Hospital.

1 Accordingly, the Omnibus Objection is sustained as to
2 Proof of Claim No. 179281-1, and the Oversight Board is
3 directed to submit a proposed order to chambers reflecting that
4 disposition when all outstanding responses to the Omnibus
5 Objection have been resolved. Thank you.

6 The next agenda item, number IV.3, is the 514th
7 Omnibus Objection, and that is filed at Docket Entry No. 22251,
8 and in this case an opposing response has been filed at 22770
9 by ICPR Junior College.

10 Ms. Osaben.

11 MR. SOSA: Good morning, your Honor. Actually it's
12 Javier Sosa of Proskauer Rose on behalf of the Oversight Board.
13 We'll address this one.

14 THE COURT: Good morning, Mr. Sosa.

15 MR. SOSA: Good morning, your Honor.

16 Your Honor, this morning I heard from counsel from
17 ICPR Junior College informing me that he was unaware until this
18 morning that the hearing had been changed to virtual and, thus,
19 neither he nor his client had any credentials to appear in
20 today's hearing. As such, unless the Court wishes to proceed,
21 we ask to adjourn the hearing with respect to the ICPR response
22 filed at ECF No. 22251 until the next Omnibus Hearing.

23 THE COURT: That adjournment request is granted.

24 Thank you.

25 MR. SOSA: Thank you, your Honor.

1 THE COURT: Please, since it appears that ICPR's
2 counsel is not a regular participant in these proceedings, I'll
3 be grateful if you'll help to keep them up to speed on the
4 location and format of the hearing, which, in these pandemic
5 times, can change, so that we'll all be in the same place,
6 virtual or physical, for the next Omni.

7 Thank you, Mr. Sosa.

8 This concludes the matters scheduled for hearing at
9 the Omnibus Hearing in the Title III cases. Matters that are
10 adjourned, in addition to the one that was just adjourned, are
11 listed in the agenda filed by the Oversight Board and will be
12 taken up at future Omnis as they become ready for attention.

13 (Whereupon the Qualifying Modification Hearing was
14 held)

15 (Adjourned)

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